

**MINUTES
of the
FIFTH MEETING
of the
LAND GRANT COMMITTEE
November 2-3, 2005
Cubero**

The fifth meeting of the land grant committee was called to order by Representative Miguel P. Garcia, chair, at 10:15 a.m. on November 2, 2005 in the Cubero community hall.

Present

Rep. Miguel P. Garcia, Chair
Sen. Bernadette M. Sanchez, Vice Chair
Sen. Rod Adair
Rep. Justine Fox-Young (11/2)
Rep. Jimmie C. Hall
Rep. Manuel G. Herrera
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino (11/2)
Rep. Debbie A. Rodella

Absent

Sen. Joseph J. Carraro

Advisory Members

Sen. William E. Sharer
Rep. Eric A. Youngberg

Rep. Hector H. Balderas
Sen. Carlos R. Cisneros
Sen. Phil A. Griego
Rep. Ben Lujan
Sen. Leonard Tsosie

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Jon Boller
Sheila Manzagol

Guests

A copy of the guest list is in the meeting file.

Wednesday, November 2

Cubero Land Grant—History and Current Projects

Ben Chavez and Frank Chavez, president and vice president, respectively, of the Cubero land grant, welcomed the committee to Cubero. Ben Chavez gave a brief history of the land grant, noting it was granted to Juan Chavez and 60 others in 1833 by the Mexican government, and

patented in 1896 by the United States. He noted that of the original grant of 16,400 acres, the land grant still holds between 12,000 and 13,000 acres. He said that, in 1912, a school was established on the land grant, and that years ago the grant had deeded some 30 acres to the school, but that 24 of those acres had reverted to the grant this year because they were not being used by the school. The land grant has applied for a \$500,000 community development block grant and submitted a \$500,000 individual capital infrastructure plan to fund a sewer system for the grant, he said, since everyone, individually, currently possesses a well and septic tank, which has raised concerns about contamination. The land grant is currently negotiating with the Pueblo of Acoma and the New Mexico department of transportation over expanding exit 102 of interstate 40, which will further intrude on the land grant's property, he explained. Frank Chavez questioned whether the pueblo's casino, which is on the south side of the interstate and sits on land that was formerly part of the grant, is on land contiguous to the pueblo's, and whether it was legally put into trust status before the casino opened. The committee asked staff to find out if the casino was placed on non-contiguous land and if proper procedures were followed in putting that land in trust for the pueblo. The committee also asked that a letter be sent to the department of transportation urging it to work with the Cubero land grant on the interchange issue.

Delinquent Tax Sales of Former Grant Lands

Tim Eichenberg, property tax division director, taxation and revenue department, said that the division might need some clarification on how to administer the changes made last session to Section 19-7-56 NMSA 1978 by House Bill 332. For example, if a piece of property is legally sold by the board of trustees, should that parcel be subject to new requirements, he asked. Is the purpose of the change to prevent erosion of the property base of land grants, or is it to rebuild that base? He said that the division handles about 70,000 to 80,000 parcels of land per year, and that the division does not have the staffing to research all titles back to pre-statehood. Also, he noted that some land is double- or triple-assessed since many land grants pay taxes on all or most property within their borders, while individuals often do so on plots within the grants. He said that the division is holding up on sales of some properties until it is clear whether a particular land grant needs to be notified of the sale. The committee asked that he come back in December with any changes he thinks would help clarify the law.

Land Grant Registry Update

Mr. Ortega was unable to attend the meeting and will be present at the December meeting.

Statutory Land Grants—Governing Statutes

Juan Sanchez, Chilili land grant, explained that Chilili, in 1876, was one of the first land grants to have statutes enacted that were specific to one grant, and that these provisions comprise the whole of Chapter 49, Article 4 NMSA 1978. He asked that the general statutes governing land grants be amended to allow land grants that have specific statutes to amend their statutes to conform with the general provisions instead of repealing their specific statutes outright. He said

that he has no problem with the general statutes other than the provisions in Section 49-1-4 NMSA 1978 that require board members to be from different precincts if the land grant encompasses more than one precinct, since precinct boundaries do not necessarily coincide with grant boundaries, and do not necessarily contain equal populations. He suggested that those provisions be amended to allow land grants to district their territory via their bylaws.

Joe and Angela Herrera, Tecolote land grant, explained that only 4,000 acres of the original grant of 48,000 acres remains, and much of that is in private hands that are not members of the grant. Moreover, they said, the land grant was recently challenged by some heirs to the grant who say they have a superior claim to the grant. They said they are also concerned about provisions in their statutes (Article 10 of Chapter 49 NMSA 1978) that allow non-heirs to the grant to vote and be elected to the board of trustees of the grant.

Jerry Fuentes and John Chavez, Nuestra Senora del Rosario, San Fernando y Santiago land grant, said they would also like to amend their statutes to conform with the general provisions of Chapter 49, Article 1 NMSA 1978. However, they noted their concern that the provisions on who qualifies as an heir and member of the grant are currently broader than the definition in the general provisions; accordingly, conforming their statutes to the general provisions would have to entail grandfathering in all those who qualified as members of the grant before the changes are made. They asked that the committee allow them to work with staff to draft legislation for the 2007 session before their April board meeting so that their members could vote on the proposed changes to their governing statutes.

Ernesto Lujan, Las Vegas land grant, explained how the Las Vegas grant is currently run, and how the board of trustees does not want to change its statutes at this time due to ongoing litigation and negotiations with the city of Las Vegas over a landfill. Because the district court has ongoing jurisdiction concerning the running of the grant, he said, it would not be advantageous to the grant to give that up at this point, though he thought that the issue should be revisited once the landfill closure and restoration are completed.

Representatives of the Manzano land grant did not attend the meeting.

The committee asked staff to work with those land grants that wanted to come under the general statutes and prepare legislation to that end for the 2007 legislative session.

Permanent Fund Feasibility and Options

At a previous meeting, the committee asked if a special permanent fund for land grants could be funded with property taxes that have been paid by land grants on their common lands. Committee staff member Jon Boller summarized his findings as follows:

- land grants are not excepted from property taxes in the constitution, so they cannot be exempted from county, city, school and other property tax levies without amending the constitution;

- counties administer and collect property taxes for the county, city and schools along with any special voter-approved taxes;
- it would require a special law to direct specific counties, and not others, to contribute to a fund for the benefit of land grants (and special laws may not be enacted in this instance), but the state may impose a statewide property tax on property that is not taxed at the maximum mill rate;
- there is a 20 mill limit in the constitution, i.e., the maximum mill levy that the state can authorize to be levied on property without explicit voter approval (generally speaking);
- currently, counties can impose 11.85 mills, schools .50 mills and cities 7.65 mills, which totals 20 mills in cities, but only 12.35 mills in the remainder of the county;
- the state could conceivably impose a state property tax of a certain mill levy (up to 7.65 mills) on all property in the remainder of the county and distribute the revenue to a permanent fund for land grants that are political subdivisions of the state;
- the amount that would be collected would depend on the mill rate, and would not be directly related to the taxes paid on common lands, though one might estimate what mill levy would generate an amount roughly equal to the taxes paid on the common land and impose that rate; and
- such a tax would have to be levied statewide, not on a county-by-county basis.

In short, Mr. Boller concluded that financing a permanent fund through the use of property taxes is possible, but it could not be done by diverting county tax revenue attributable to the taxes levied on the common lands of land grants. The committee decided that another form of financing might be more appropriate. The land grant forum submitted its land grant trust fund management concept, which outlines how a trust fund might be managed.

The committee recessed at 4:45 p.m.

Thursday, November 3

The committee convened at 9:00 a.m. at the Cubero community hall for a tour of the grant. At the conclusion of the tour, the committee adjourned.